

Introduced by Senator Cedillo

February 18, 2005

An act to amend Section 14602.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 591, as amended, Cedillo. Impounding: vehicles.

~~Under~~

(1) Under existing law, whenever a peace officer determines that a person was driving a vehicle while that person's driving privilege was suspended or revoked or without ever having been issued a driver's license, the peace officer is authorized to either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person. In either case, under existing law, that vehicle is required to be impounded for 30 days, subject to an earlier release to the registered owner under specified circumstances and an earlier release to the legal owner under other specified circumstances. Existing law requires the Department of Motor Vehicles to require an applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law.

~~This bill would authorize a city or county to adopt an ordinance that imposes an impoundment period that is less than 30 days where the offense involves a person having never been issued a driver's license and would provide for the release of a vehicle at the expiration of that period~~ *require a city or county to exempt a person from the impound period where the offense involves a person who has never been issued*

a driver's license due to an inability to meet the requirement that the applicant's presence in the United States is authorized under federal law.

Because this bill would impose additional duties on local law enforcement, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14602.6 of the Vehicle Code is
2 amended to read:

3 14602.6. (a) (1) Whenever a peace officer determines that a
4 person was driving a vehicle while his or her driving privilege
5 was suspended or revoked or without ever having been issued a
6 driver's license, the peace officer may either immediately arrest
7 that person and cause the removal and seizure of that vehicle or,
8 if the vehicle is involved in a traffic collision, cause the removal
9 and seizure of the vehicle, without the necessity of arresting the
10 person in accordance with Chapter 10 (commencing with Section
11 22650) of Division 11.

12 (2) (A) A vehicle so impounded shall be impounded for 30
13 days.

14 (B) Notwithstanding subparagraph (A), a local authority ~~may,~~
15 ~~by ordinance, impose a lesser impoundment period where the~~
16 ~~offense involves a person having never been issued a driver's~~
17 ~~license shall exempt a person from the impound period where the~~
18 ~~offense involves a person who has never been issued a driver's~~
19 ~~license due to an inability to meet the requirement in Section~~
20 ~~12801.5 that the applicant's presence in the United States is~~
21 ~~authorized under federal law.~~

1 (C) The impounding agency, within two working days of
2 impoundment, shall send a notice by certified mail, return receipt
3 requested, to the legal owner of the vehicle, at the address
4 obtained from the department, informing the owner that the
5 vehicle has been impounded. Failure to notify the legal owner
6 within two working days shall prohibit the impounding agency
7 from charging for more than 15 days' impoundment when the
8 legal owner redeems the impounded vehicle. The impounding
9 agency shall maintain a published telephone number that
10 provides information 24 hours a day regarding the impoundment
11 of vehicles and the rights of a registered owner to request a
12 hearing.

13 (b) The registered and legal owner of a vehicle that is removed
14 and seized under subdivision (a) or their agents shall be provided
15 the opportunity for a storage hearing to determine the validity of,
16 or consider any mitigating circumstances attendant to, the
17 storage, in accordance with Section 22852.

18 (c) Any period in which a vehicle is subjected to storage under
19 this section shall be included as part of the period of
20 impoundment ordered by the court under subdivision (a) of
21 Section 14602.5.

22 (d) (1) An impounding agency shall release a vehicle to the
23 registered owner or his or her agent prior to the end of 30 days'
24 impoundment under any of the following circumstances:

25 (A) When the vehicle is a stolen vehicle.

26 (B) When the vehicle is subject to bailment and is driven by an
27 unlicensed employee of a business establishment, including a
28 parking service or repair garage.

29 (C) When the license of the driver was suspended or revoked
30 for an offense other than those included in Article 2
31 (commencing with Section 13200) of Chapter 2 of Division 6 or
32 Article 3 (commencing with Section 13350) of Chapter 2 of
33 Division 6.

34 (D) When the vehicle was seized under this section for an
35 offense that does not authorize the seizure of the vehicle.

36 (E) When the driver reinstates his or her driver's license or
37 acquires a driver's license and proper insurance.

38 ~~(F) When the impoundment period imposed pursuant to~~
39 ~~subparagraph (B) of paragraph (2) of subdivision (a) has elapsed.~~

(2) A vehicle shall not be released pursuant to this subdivision without presentation of the registered owner's or agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(e) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(f) A vehicle removed and seized under subdivision (a) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of 30 days' impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

(3) (A) The legal owner or the legal owner's agent presents either lawful foreclosure documents or an affidavit of repossession for the vehicle, and a security agreement or title showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency shall not require any documents to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

1 (B) Administrative costs authorized under subdivision (a) of
2 Section 22850.5 shall not be charged to the legal owner of the
3 type specified in paragraph (1), who redeems the vehicle unless
4 the legal owner voluntarily requests a poststorage hearing. A city,
5 county, city or county, or state agency shall not require a legal
6 owner or a legal owner's agent to request a poststorage hearing
7 as a requirement for release of the vehicle to the legal owner or
8 the legal owner's agent. The impounding agency shall not require
9 any documents other than those specified in this paragraph. The
10 impounding agency shall not require any documents to be
11 notarized.

12 (C) As used in this paragraph, "foreclosure documents" means
13 an "assignment" as that term is defined in subdivision (o) of
14 Section 7500.1 of the Business and Professions Code.

15 (g) (1) A legal owner or the legal owner's agent that obtains
16 release of the vehicle pursuant to subdivision (f) may not release
17 the vehicle to the registered owner of the vehicle or any agents of
18 the registered owner, unless the registered owner is a rental car
19 agency, until after the termination of the 30-day impoundment
20 period.

21 (2) The legal owner or the legal owner's agent may not
22 relinquish the vehicle to the registered owner until the registered
23 owner or that owner's agent presents his or her valid driver's
24 license or valid temporary driver's license to the legal owner or
25 the legal owner's agent. The legal owner or the legal owner's
26 agent shall make every reasonable effort to ensure that the
27 license presented is valid.

28 (3) Prior to relinquishing the vehicle, the legal owner may
29 require the registered owner to pay all towing and storage
30 charges related to the impoundment and any administrative
31 charges authorized under Section 22850.5 that were incurred by
32 the legal owner in connection with obtaining custody of the
33 vehicle.

34 (h) (1) A vehicle removed and seized under subdivision (a)
35 shall be released to a rental car agency prior to the end of 30
36 days' impoundment if the agency is either the legal owner or
37 registered owner of the vehicle and the agency pays all towing
38 and storage fees related to the seizure of the vehicle.

39 (2) The owner of a rental vehicle that was seized under this
40 section may continue to rent the vehicle upon recovery of the

1 vehicle. However, the rental car agency may not rent another
2 vehicle to the driver of the vehicle that was seized until 30 days
3 after the date that the vehicle was seized.

4 (3) The rental car agency may require the person to whom the
5 vehicle was rented to pay all towing and storage charges related
6 to the impoundment and any administrative charges authorized
7 under Section 22850.5 that were incurred by the rental car
8 agency in connection with obtaining custody of the vehicle.

9 (i) Notwithstanding any other provision of this section, the
10 registered owner and not the legal owner shall remain responsible
11 for any towing and storage charges related to the impoundment,
12 any administrative charges authorized under Section 22850.5,
13 and any parking fines, penalties, and administrative fees incurred
14 by the registered owner.

15 (j) The impounding agency is not liable to the registered
16 owner for the improper release of the vehicle to the legal owner
17 or the legal owner's agent provided the release complies with this
18 section.

19 *SEC. 2. If the Commission on State Mandates determines that*
20 *this act contains costs mandated by the state, reimbursement to*
21 *local agencies and school districts for those costs shall be made*
22 *pursuant to Part 7 (commencing with Section 17500) of Division*
23 *4 of Title 2 of the Government Code.*